

1 being the one in which we are located here, which was
2 presided over by Judge Winter, now our Maryland judge,
3 Judge Sobeloff, still a member of that court and chief
4 judge until quite recently.

5 Now, as for the so-called blackjack verdict,
6 where the judge forces the jury to act, I might call your
7 attention to the fact that under the procedure, the rules
8 and the law as changed and modified by constitutional
9 amendment, indeed, to allow the consideration of the case
10 on its merits by the court, everything that the trial
11 judge does now is fully reviewable and would be as fully
12 reviewable on appeal without this as with it. The court
13 is mandatorily required to instruct that everything he does
14 or fails to do is open to review on appeal, so that whether
15 we keep this antique thorn or whether we remove it, the
16 effect would be precisely the same as far as the rights of
17 the accused are concerned on appeal.

18 The only difference is this, that by appealing
19 this thorn we would allow the judge to give an instruction
20 on the law, and we would take away from the jury the
21 so-called right to disregard it, either for or against, which